

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE APRIL 28, 2003

SENATE BILL

No. 750

Introduced by Senator Machado

February 21, 2003

An act to add Division 26.7 (commencing with Section 79600) to the Water Code, relating to financing a safe drinking water, water quality, flood protection, and water supply reliability program, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 750, as amended, Machado. Safe Drinking Water, Water Quality, Flood Protection, and Water Supply Reliability Act of 2004.

Under existing law, various measures have been approved by the voters to provide funds for water projects, facilities, and programs.

This bill would enact the Safe Drinking Water, Water Quality, Flood Protection, and Water Supply Reliability Act of 2004 which, if adopted, would authorize, for purposes of financing a safe drinking water, water quality, flood protection, and water supply reliability program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$5,000,000,000.

This bill would require the Secretary of State to submit the bond act to the voters at the ____ election.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 26.7 (commencing with Section 79600) is added to the Water Code, to read:

DIVISION 26.7. SAFE DRINKING WATER, WATER QUALITY, FLOOD PROTECTION, AND WATER SUPPLY RELIABILITY ACT OF 2004

CHAPTER 1. GENERAL PROVISIONS

79600. This division shall be known and may be cited as the Water Bond Act of 2004.

79601. The Legislature finds and declares _____.

79605. As used in this division, the following terms have the following meanings:

(a) “Acquisition” means the acquisition of a fee interest or any other interest, including easements, leases, and development rights.

(b) “Board” means the State Water Resources Control Board.

(c) “CALFED Bay-Delta Program” means the undertaking by CALFED to develop and implement, by means of the final programmatic environmental impact statement/environmental impact report, the preferred programs, actions, projects, and related activities that will provide solutions to identified problem areas related to the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ecosystem, including, but not limited to, the San Francisco Bay/Sacramento-San Joaquin Delta and its tributary watersheds.

(d) “Department” means the Department of Water Resources.

(e) “Fund” means the Safe Drinking Water, Water Quality, Flood Protection and Water Supply Reliability Fund of 2004, established pursuant to Section 79610.

(f) “Nonprofit organization” means any nonprofit corporation qualified under Section 501(c)(3) of the United States Internal Revenue Code.

1 (g) “Safe drinking water standards” means maximum
2 contaminant levels and action levels, including the United States
3 Environmental Protection Agency’s Stage 1 Disinfectants and
4 Disinfection By-Products Rule.

5 (h) “Secretary” means the Secretary of the Resources Agency.

6 ~~(h)~~—

7 (i) “Quantification Settlement Agreement” means the
8 Colorado River Quantification Settlement Agreement.

9 79606. Every proposed activity to be financed pursuant to this
10 division shall be undertaken in compliance with the California
11 Environmental Quality Act (Division 13 (commencing with
12 Section 21000) of the Public Resources Code).

13 79607. Not more than 5 percent of the money made available
14 pursuant to the division may be used for administrative costs.

15 79609. Any project financed by this division that will wholly
16 or partially assist in the fulfillment of one or more of the goals of
17 the CALFED Bay-Delta Program shall be consistent with the
18 CALFED Programmatic Record of Decision, and shall be
19 implemented, to the maximum extent possible, through local and
20 regional programs.

21
22 CHAPTER 2. THE SAFE DRINKING WATER, WATER QUALITY,
23 FLOOD PROTECTION, AND WATER SUPPLY RELIABILITY FUND OF
24 2004
25

26 79610. The Safe Drinking Water, Water Quality, Flood
27 Protection, and Water Supply Reliability Fund of 2004 is hereby
28 established in the State Treasury.

29 79611. All money deposited in the fund shall be expended
30 only for the purposes and in the amounts set forth in this division
31 and for no other purpose.

32 79612. Except as otherwise expressly provided in this
33 division, upon a finding by the agency authorized to administer or
34 expend money appropriated from the fund that a particular project
35 or program for which money has been allocated or granted cannot
36 be completed, or that the amount that was appropriated, allocated,
37 or granted is in excess of the total amount needed, the Legislature
38 may reappropriate the money for other high priority needs
39 consistent with this division.
40

CHAPTER 3. SAFE DRINKING WATER

79620. (a) The sum of two hundred million dollars (\$200,000,000) shall be available for appropriation by the Legislature from the fund to the State Department of Health Services for grants for infrastructure improvements and related actions to prevent or remove dangerous contaminants from sources of drinking water and to meet safe drinking water standards. Priority shall be given to projects to address immediate threats to public health and to prevent the spread of contamination of drinking water sources.

CHAPTER 4. LOCAL WATER QUALITY, FLOOD MANAGEMENT AND WATER SUPPLY PROJECTS

79660. The sum of two billion five hundred million dollars (\$2,500,000,000) shall be available for appropriation by the Legislature from the fund to ____ for competitive grants dispensed on a regional basis, as provided in Section 79664, to local public agencies or nonprofit organizations for projects that ~~include~~ *provide* two or more of the following ~~elements~~ *benefits*:

- (a) Programs for water supply reliability, water conservation, or water use efficiency.
- (b) Stormwater capture, storage, treatment, or management.
- (c) Ecosystem restoration, removal of invasive nonnative plants, the creation and enhancement of wetlands, or the acquisition, protection, or restoration of open space or watershed lands.
- (d) Nonpoint source pollution reduction, management, or monitoring.
- (e) Groundwater recharge or management projects.
- (f) Contaminant and salt removal through reclamation, desalting, or other treatment technologies.
- (g) Water banking, exchange, reclamation, or improvement of water quality.
- (h) Planning and implementation of multipurpose flood control programs that protect property, and improve water quality, facilitate stormwater capture or percolation, or protect or improve wildlife habitat.
- (i) Watershed management planning or implementation.

(j) Demonstration projects to develop new drinking water treatment or distribution methods.

(k) Wastewater management and treatment.

79662. (a) _____ shall select projects for each region based on the following priorities:

(1) First priority shall be projects that implement ~~an~~ *a* watershed management plan prepared pursuant to Section 30947 of the Public Resources Code.

(2) Second priority shall be projects that provide regional or ~~multiregional water quality or ecosystem restoration benefits.~~ *multiregional benefits.*

(3) Third priority shall be projects that ~~provide water quality or ecosystem restoration benefits other than those described in paragraph (2)~~ *include water quality or ecosystem restoration benefits.*

(b) The _____ shall appoint regional citizens' advisory committees in each region to provide recommendations with regard to eligible projects in accordance with this chapter.

79663. To be eligible for financing pursuant to this chapter, the proposed project shall meet both of the following requirements:

(a) The area served by the proposed project shall have an adopted groundwater management plan that meets the requirements of Section 10753.7 or ~~_____ the proposed project shall include the development of a groundwater management plan.~~

(b) The project includes matching funds or donated services from nonstate sources. This requirement may be waived for communities with a financial hardship.

(c) For projects that include water supply benefits, the matching requirements may not be less than the proportional amount attributable to the water supply benefits.

79664. (a) Of the funds described in Section 79660, two billion four hundred million dollars (\$2,400,000,000) shall be available from the fund for appropriation by the Legislature to _____ for projects that meet the requirements of this chapter and that are undertaken within the boundaries of the respective regions described in Section 13200, as follows:

1	Region 1—North Coast	\$90,000,000
2	Region 2—San Francisco Bay	\$410,000,000
3	Region 3—Central Coast	\$145,000,000
4	Region 4—Los Angeles	\$550,000,000
5	Region 5—Central Valley	\$420,000,000
6	Region 6—Lahontan	\$90,000,000
7	Region 7—Colorado River Basin	\$90,000,000
8	Region 8—Santa Ana	\$375,000,000
9	Region 9—San Diego	\$230,000,000

10

11 (b) Of the funds described in Section 79660, one hundred
12 million dollars (\$100,000,000) shall be available from the fund for
13 appropriation by the Legislature to ____ for projects that meet the
14 requirements of this chapter and that are undertaken within
15 watersheds located in the Sierra Nevada region. For the purposes
16 of this chapter “Sierra-Nevada region” means ____.

17 79665. For the purposes of this chapter, eligible projects
18 include projects that benefit more than one region.

19 79666. ____ may only allocate funds for a single project in the
20 amount of fifty million dollars (\$50,000,000) or more upon
21 approval of the Legislature by statute.

22

23 CHAPTER 5. STATEWIDE WATER SUPPLY PROJECTS

24

25 Article 1. CALFED Bay-Delta Program

26

27 79670. The sum of five hundred million dollars
28 (\$500,000,000) shall be available for appropriation by the
29 Legislature from the fund to the California Bay-Delta Authority
30 for the balanced implementation of the CALFED Bay-Delta
31 Program. Funds appropriated pursuant to this chapter shall be
32 expanded to supplement expenditures made by federal and local
33 agencies to achieve CALFED objectives. Projects financed
34 pursuant to this article may include independent scientific review,
35 monitoring, and assessment of the results or effectiveness of the
36 project or program expenditure.

37 79671. Completion of the CALFED Integrated Storage
38 Investigation shall be a priority for the California Bay-Delta
39 Authority. Feasibility studies for proposed storage projects shall



1 be completed as soon as practicable and shall include all of the
2 following:

3 (a) An assessment of the economic feasibility of the project
4 through a comprehensive cost-benefit analysis.

5 (b) A clear identification of beneficiaries.

6 (c) An assessment of benefits relative to baseline conditions.

7 (d) An identification of all environmental impacts and
8 mitigation costs associated with the projects.

9 (e) A cost allocation and repayment plan that requires project
10 beneficiaries to pay their total share of all costs, including
11 operation and maintenance, based on an assessment of their share
12 of benefits from the project.

13 (f) A determination of the ability of project beneficiaries to pay
14 their share of allocated costs.

15 (g) An identification of public benefits.

16 (h) A determination of federal funds available or likely to be
17 available.

18 (i) A determination of the state share of costs based on public
19 benefits of the project.

20 79672. Consistent with the CALFED Programmatic Record
21 of Decision, priority shall be given to projects that achieve
22 multiple benefits across CALFED program elements.

23
24 Article 2. Reducing Dependence on Water Imports

25
26 79674. Subject to subdivision (b) of Section 79676, the sum
27 of one billion dollars (\$1,000,000,000) shall be available for
28 appropriation by the Legislature from the fund to the department
29 to increase available water supplies to urban areas in southern
30 California, reduce reliance on Colorado River water as required by
31 the Quantification Settlement Agreement, and protect and restore
32 fish and wildlife habitat at the Salton Sea.

33 79675. First priority for use of funds made available by this
34 article is the development of and implementation of a restoration
35 and water reuse plan that shall have all of the following project
36 elements:

37 (a) Treatment, desalination, and reuse of a portion of the
38 agricultural wastewater and runoff now flowing to the Salton Sea
39 to allow a transfer of water to urban users of up to 500,000 acre feet

1 per year, with the proceeds from the transfer used to cover
2 additional capital and operational costs of the project.

3 (b) (1) Establishment of long-term stable aquatic habitat
4 capable of supporting the same species and substantially the same
5 level of fish and birds currently using the Salton Sea, as
6 determined by the Department of Fish and Game. This project
7 element may include physical structures within the Salton Sea to
8 create an area of controlled salinity to provide long-term habitat
9 protection. This project element shall be designed to do either of
10 the following:

11 (A) Reduce the impacts of the transfer of water from the
12 Imperial Irrigation District to the San Diego County Water
13 Authority pursuant to the Quantification Settlement Agreement.

14 (B) Provide an alternative source of water for the transfer
15 described in subparagraph (A), thereby reducing the state's use of
16 Colorado River water.

17 (2) To the extent that the department determines that the
18 implementation of this project element reduces mitigation costs or
19 changes the mitigation and conservation obligations created by the
20 transfer described in subparagraph (A) or paragraph (1), and any
21 natural community conservation plan or habitat conservation plan
22 associated with that transfer, the department, in collaboration with
23 the Department of Fish and Game, shall seek to recover those cost
24 reductions and adjust the terms of the plan so as to achieve the
25 conservation goals of the plan at the lowest cost to the state.

26 (c) Maintenance and restoration of the maximum amount of
27 stable shoreline and of recreational values traditionally associated
28 with the Salton Sea.

29 (d) Funds not needed to implement the restoration and water
30 reserve plan in accordance with this section shall be available for
31 appropriation by the Legislature for the purposes of Section
32 79676.

33 79676. (a) The department, in collaboration with the
34 Department of Fish and Game, shall conduct a feasibility study of
35 the plan described in Section 79675.

36 (b) If the department, in collaboration with the Department of
37 Fish and Game, determines that the plan described in Section
38 79675 is feasible, the Legislature may appropriate the funds made
39 available by this article that have not been otherwise expended for
40 the implementation of the plan. If the department in collaboration

1 with the Department of Fish and Game, determines that the plan
2 is not feasible, the department shall submit a copy of the feasibility
3 study to the Legislature with its recommendation. The Legislature
4 may, upon receiving a recommendation that the plan is not
5 feasible, appropriate the funds made available by this article, as
6 follows:

7 (1) Not less than two hundred million (\$200,000,000) shall be
8 appropriated to the Department of Fish and Game for habitat
9 acquisition, restoration, or other measures needed to provide for
10 the conservation of species currently dependent on the Salton Sea.

11 (2) All remaining funds made available by this article shall be
12 available for appropriation to the department for desalination or
13 water recycling projects, or for grants for desalination or water
14 recycling projects subject to matching requirements as the
15 department may impose to maximize the total amount of new
16 water supplies generated by these funds.

17 79677. The department shall use any additional water
18 generated by the implementation of the plan and the projects
19 described in Sections 79675 and 79676 for both of the following
20 purposes:

21 (a) To meet any water shortfall due to the failure to implement
22 any element of the Quantification Settlement Agreement.

23 (b) To reduce southern California's reliance on State Water
24 Project water from northern California.

25
26 CHAPTER 6. WATERSHED PROTECTION AND RESTORATION
27

28 79680. The sum of two hundred million dollars
29 (\$200,000,000) shall be available for appropriation by the
30 Legislature from the fund to the secretary for grants for the
31 protection and restoration of watersheds, including the acquisition
32 of land and water resources from willing sellers in the Sierra
33 Nevada-Cascade Mountain Region, as described in subdivision (e)
34 of Section 5096.347 of the Public Resources Code, to protect water
35 quality and wildlife resources in lakes, rivers, streams, and
36 wetlands that serve as the source of much of the state's drinking
37 water.

38 79681. Notwithstanding Section 13340 of the Government
39 Code, the sum of four hundred million dollars (\$400,000,000) is
40 hereby continuously appropriated from the fund to the Wildlife

1 Conservation Board, without regard to fiscal years, for the
2 acquisition, protection, and restoration of watershed lands and for
3 the acquisition of water rights for the purpose of protecting and
4 restoring threatened and endangered species and their habitats,
5 protecting or restoring habitat linkages, removing barriers to fish
6 passage and spawning, and protecting and improving water quality
7 necessary for healthy fish and wildlife populations.

8 79682. The sum of two hundred million dollars
9 (\$200,000,000) shall be available for appropriation by the
10 Legislature from the fund to the State Coastal Conservancy for the
11 protection and restoration of coastal watersheds and of marine
12 waters and associated projects and activities as provided in Section
13 31220 of the Public Resources Code.

14
15 CHAPTER 7. MISCELLANEOUS
16

17 79685. Not more than 10 percent of funds allocated to any
18 program funded by this division may be used to finance
19 monitoring, research, planning, outreach, or training necessary for
20 the successful implementation of the program.

21
22 CHAPTER 8. FISCAL PROVISIONS
23

24 79690. Bonds in the total amount of five billion dollars
25 (\$5,000,000,000), not including the amount of any refunding
26 bonds, may be issued and sold to provide a fund to be used for
27 carrying out the purposes expressed in this division and to
28 reimburse the General Obligation Bond Expense Revolving Fund
29 pursuant to Section 16724.5 of the Government Code. The bonds,
30 when sold, shall be and constitute a valid and binding obligation
31 of the State of California, and the full faith and credit of the State
32 of California is hereby pledged for the punctual payment of the
33 principal of, and interest on, the bonds as the principal and interest
34 become due and payable.

35 79691. The bonds authorized by this division shall be
36 prepared, executed, issued, sold, paid, and redeemed as provided
37 in the State General Obligation Bond Law (Chapter 4
38 (commencing with Section 16720) of Part 3 of Division 4 of Title
39 2 of the Government Code), and all of the provisions of that law,
40 except Section 16727, apply to the bonds and to this division and

1 are hereby incorporated in this division as though set forth in full
2 in this division.

3 79692. (a) Solely for the purpose of authorizing the issuance
4 and sale, pursuant to the State General Obligation Bond Law, of
5 the bonds authorized by this division, the Safe Drinking Water,
6 Water Quality, Flood Protection, and Water Supply Reliability Act
7 of 2004 Finance Committee is hereby created. For purposes of this
8 division, the Safe Drinking Water, Water Quality, Flood Protection
9 and Water Supply Reliability Act of 2004 Finance Committee is
10 “the committee” as that term is used by the State General
11 Obligation Bond Law. The committee consists of the Treasurer,
12 the Controller, and the Director of Finance, or their designated
13 representatives. The Treasurer shall serve as chairperson of the
14 committee. A majority of the committee may act for the
15 committee.

16 (b) For purposes of the State General Obligation Bond Law,
17 each state agency that administers an appropriation from the fund
18 is designated the “board.”

19 79693. The committee shall determine whether or not it is
20 necessary or desirable to issue bonds authorized pursuant to this
21 division in order to carry out the actions specified in this division
22 and, if so, the amount of bonds to be issued and sold. Successive
23 issues of bonds may be authorized and sold to carry out those
24 actions progressively, and it is not necessary that all of the bonds
25 authorized to be issued be sold at any one time.

26 79694. There shall be collected each year, and in the same
27 manner and at the same time as other state revenue is collected, in
28 addition to the ordinary revenues of the state, a sum in an amount
29 required to pay the principal of, and interest on, the bonds each
30 year. It is the duty of all officers charged by law with any duty in
31 regard to the collection of the revenue to do so, and perform each
32 and every act that is necessary to collect that additional sum.

33 79695. Notwithstanding Section 13340 of the Government
34 Code, there is hereby appropriated from the General Fund in the
35 State Treasury, for purposes of this division, an amount that will
36 equal the total of the following:

37 (a) The sum annually necessary to pay the principal of, and
38 interest on, bonds issued and sold pursuant to this division, as the
39 principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 79696, appropriated without regard to fiscal years.

79696. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this division. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from proceeds received from the sale of bonds for the purpose of carrying out this division.

79697. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund, and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

79698. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded through this bond act.

79699. The agency that administers an appropriation from the fund may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, including other authorized forms of interim financing that include, but are not limited to, commercial paper, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this division. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this division. The requesting agency shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the requesting agency in accordance with this division.

79700. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this division includes the approval of the issuance of any other bonds issued to

1 refund any bonds originally issued under this division or any
2 previously issued refunding bonds.

3 79701. Notwithstanding any provision of this division or the
4 State General Obligation Bond Law, if the Treasurer sells bonds
5 pursuant to this division that include a bond counsel opinion to the
6 effect that the interest on the bonds is excluded from gross income
7 for federal tax purposes, subject to designated conditions, the
8 Treasurer may maintain separate accounts for the investment of
9 bond proceeds and for the investment earnings on those proceeds.
10 The Treasurer may use or direct the use of those proceeds or
11 earnings to pay any rebate, penalty, or other payment required
12 under federal law or to take any other action with respect to the
13 investment and use of those bond proceeds required or desirable
14 under federal law to maintain the tax-exempt status of those bonds
15 and to obtain any other advantage under federal law on behalf of
16 the funds of that state.

17 79702. The Legislature hereby finds and declares that,
18 inasmuch as the proceeds from the sale of bonds authorized by this
19 division are not “proceeds of taxes” as that term is used in Article
20 XIII B of the California Constitution, the disbursement of these
21 proceeds is not subject to the limitations imposed by that article.

22 SEC. 2. *This act shall become effective upon the approval by*
23 *the voters of the Safe Drinking Water, Water Quality, Flood*
24 *Protection, and Water Supply Reliability Act of 2004, as set forth*
25 *in Section 1 of the act adding this section.*

26 SEC. 3. *Section 1 of this act shall be submitted to the voters*
27 *at the _____ election in accordance with provisions of the*
28 *Government Code and the Elections Code governing the*
29 *submission of statewide measures to the voters.*

30 SEC. 4. (a) *Notwithstanding any other provision of law, all*
31 *ballots at the election shall have printed thereon and in a square*
32 *thereof, the words: “Safe Drinking Water, Water Quality, Flood*
33 *Protection, and Water Supply Reliability Act of 2004” and in the*
34 *same square under those words, the following in 8-point type:*
35 *“This act provides for a bond issue of five billion dollars*
36 *(\$5,000,000,000) to provide funds for a safe drinking water, water*
37 *quality, flood protection, and water supply reliability program.”*
38 *Opposite the square, there shall be left spaces in which the voters*
39 *may place a cross in the manner required by law to indicate*
40 *whether they vote for or against the act.*

1 *SEC. 5.* This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety
3 within the meaning of Article IV of the Constitution and shall go
4 into immediate effect. The facts constituting the necessity are:

5 In order to remedy critical drinking water, water quality, flood
6 protection, and water supply problems, thereby protecting public
7 health and safety, it is necessary that this act take effect
8 immediately.

